

**CITY OF HAMILTON**

**PUBLIC WORKS DEPARTMENT**  
**Operations and Waste Management Division**

<b>TO:</b> Chair and Members Public Works Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> November 21, 2011	
<b>SUBJECT/REPORT NO:</b> Recycling Processing Procurement Process - Contract Extension Negotiations with Canada Fibers Limited 2013 - 2020 - (PW11030b) - (City Wide) (Outstanding Business List Item)	
<b>SUBMITTED BY:</b> Gerry Davis, CMA General Manager Public Works Department	<b>PREPARED BY:</b> Emil Prpic (905) 546-2424, Extension 4203
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That Contract C11-74-02 between Canada Fibers Limited and the City of Hamilton for the operation and maintenance of the City of Hamilton's Material Recycling Facility be extended for a fixed term period of seven (7) years from April 1, 2013 to March 31, 2020 in accordance with the contract provisions outlined in Appendix A of Report PW11030b;
- (b) That Canada Fibers Limited be retained to design, supply, install, operate and maintain new front end equipment for the container line at a cost not to exceed \$1.91 million (excluding taxes), subject to the funds being approved as part of the 2012 Capital budget process;
- (c) That Canada Fibers Limited be authorized to market container processing line materials from the City of Hamilton's Material Recycling Facility in addition to fibres and this be incorporated into the Contract outlined in recommendation (a) of report PW11030b ;
- (d) That staff be directed to seek out and to enter partnerships with both private and public entities for the sale of excess merchant capacity at the City of Hamilton's Material Recycling Facility;
- (e) That the Mayor and City Clerk be authorized and directed to execute all necessary documents to implement recommendations (a), (b) and (c) with

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content acceptable to the General Manager of Public Works and in a form acceptable to the City Solicitor;

- (f) That the item relating to Waste Collection and Recycling Processing Procurement Processes for 2013-2020, recommendation (e) of item 3 be removed from the Public Works outstanding business list.

**EXECUTIVE SUMMARY**

On July 7, 2011, Council approved Item 3 of General Issues Committee Report 11-024, regarding Report PW11030a - "Waste Collection and Recycling Processing Processes for 2013-2020". Three of the recommendations provided direction to staff to enter into negotiations with Canada Fibers Limited (CFL) to extend Contract C11-74-02 beyond the current expiration date of March 31, 2013 and that negotiations with CFL include consideration of necessary capital improvements needed for the MRF operations. Staff was instructed to report back to Council on the outcome of the negotiations.

Staff have concluded negotiations with CFL and an outline of negotiated contract provisions are provided in Report PW11030b as Appendix A. Staff is recommending that:

- Contract C11-74-02 between the City of Hamilton (City) and CFL be extended for a fixed term period of seven (7) years beyond the current expiration date of March 31, 2013 to March 31, 2020 at the agreed upon processing rate with no estimated net increase to the operating budget;
- CFL be retained to design, supply, install, operate and maintain new front end equipment for the container line at a cost not to exceed \$1.91 million (excluding taxes), subject to the funds being approved as part of the 2012 Capital budget;
- Staff be directed to seek out and to enter partnerships with both private and public entities for the sale of excess merchant capacity at the City's Material Recycling Facility (MRF) ;
- and amend Contract C11-74-02 accordingly.

CFL has been operating the City's MRF continuously since April 1, 2003 and the current contract expires on March 31, 2013. The purpose of awarding the contract extension a year in advance is to allow for the design, installation and commissioning of additional processing equipment.

Four key items have been negotiated as part of the contract extension between the City and CFL. These being:

- Contract extension term - 7 years
- Processing rate - one of the lowest in Ontario as outlined in Report PW11030b as Appendix B
- Processing improvements - to the front end of the container line to ensure continuous operation of the facility until 2020

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- Marketing of materials - all materials to be marketed by CFL to streamline the materials marketing process.

The contract extension has been negotiated to seven (7) years to align it with the collection contract, which is also due to expire on March 31, 2013 and whose next contract will be also be seven (7) years. Staff have negotiated with CFL that during this term, they are responsible for the operation, maintenance and replacement of any equipment under the same terms and conditions found in the current contract. By utilizing the current equipment and extending the contract with the current operator, the City avoids having to invest \$6 - \$8M in new fibre and container lines. There is no estimated net increase in operating cost as a result of what has been negotiated.

It should be noted that the recommendations in this report do not include any changes that may be required as a result of the current Waste Collection Request for Proposals.

**Alternatives for Consideration - See Page 8**

#### **FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** There will be no net increase in the operating budget as a result of a contract extension as gross increases to the operating contract will be estimated to be offset by program revenues.

As recommended by the City's consultant Stantec Consulting Limited (Stantec), upgrades will need to be made to the container processing line to ensure continuous operation of the facility for the term of the Contract. The upgrades to the container processing line will not exceed \$1.91 million (excluding taxes) and have been requested as part of the 2012 capital budget (Project ID #5121251700).

If approved, staff will pursue the opportunity to obtain funding from Waste Diversion Ontario's Continuous Improvement Fund to offset a portion of the cost of the capital upgrades. By extending the current contract, the existing fibre processing line equipment, balers and rolling stock (all belonging to CFL) will continue to be used and thus eliminate the need for the City to replace all CFL owned equipment at an estimated cost of \$3 million.

**Staffing:** The implementation of the recommendations of this report will not impact staffing levels.

**Legal:** Legal Services has been engaged in the contract extension negotiations. Pending approval from Council an amending agreement will be prepared for execution by the Mayor and City Clerk with content acceptable to the General Manager of Public Works and in a form acceptable to the City Solicitor.

#### **HISTORICAL BACKGROUND**

CFL has been the City's recycling processing contractor operating the City's MRF located at 1579 Burlington Street East since March 31, 2003. Contract C11-74-02

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between CFL and the City is set to expire on March 31, 2013. In preparation for the expiration of this contract staff presented Report PW11030a ("Waste Collection and Recycling Processing Processes for 2013-2020") at the July 6, 2011, General Issues Committee meeting.

In the report staff recommended to Council that due to the costs (estimated \$15M - \$20M) involved in switching from the current dual stream operation to a single stream MRF and the time required to make such a change (e.g. building renovations, equipment purchase, etc.) the most effective option for the City would be to maintain a dual stream operation. Furthermore, Stantec's report confirmed that CFL is operating the MRF effectively, and that the City is receiving excellent value for the processing rate it is paying to CFL. Due to the capital costs, timing, quality of work and favourable processing rate that CFL is providing, staff recommended that the current contract between CFL and the City be extended.

Following Council approval, staff entered contract extension negotiations with CFL. By the end of September 2011 staff was able to negotiate a seven (7) year extension of the current contract, which would then expire on March 31, 2020.

#### **POLICY IMPLICATIONS**

The recommendations in this report are guided by the Public Works Business Plan "Innovate Now", the Solid Waste Management Master Plan (SWMMP) and the City's Purchasing Policy.

#### **Innovate Now - Public Works Business Plan**

As the Public Works Department endeavours to be recognized as the centre of environmental and innovative excellence in Canada, the vision drivers and actions of the Public Works Strategic Plan affecting the recommendations of this report are:

- Communities: Services our communities connect with and trust  
Waste management services and improvements recommended in this report contribute to the Public Works Department's leadership on "greening" and stewardship providing residents with appropriate services
- Finances: Providing financial management for the long haul  
The implementation of programs that have no net negative impact on the budget represents sound and efficient financial management
- Processes: Business processes are defined and aligned  
Waste diversion programs that are cost neutral or cost savings align with the Business Plan

#### **Solid Waste Management Master Plan (SWMMP)**

The implementation of the recommendations in this report provide opportunities to achieve cost effectiveness and efficiencies in the City's waste diversion programs.

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Recommendation #4: *“The City of Hamilton must develop a waste management system that contains the following waste diversion components ... State-of-the-art Material Recycling Facility (MRF) to divert conventional “dry” recyclable materials”*. By investing in equipment upgrades it will ensure that the MRF has the ability to efficiently process recyclable materials and maintain revenues.

Recommendation #14: *“The City of Hamilton should continue to lobby the federal and provincial governments to do everything in their power to support municipalities with waste management programs with appropriate legislation, funding and fiscal policy”*. The City will seek funding from Waste Diversion Ontario’s Continuous Improvement Fund to offset the cost of capital upgrades.

Recommendation #15: *“The City of Hamilton should enter any Public-Private partnerships with caution. If pursued, the City should ensure it retains sufficient control and financial protection, to allow the City to continue to deliver the service should the private partner be unable or unwilling to fulfil its obligations”*. The contractual arrangements with the private sector will provide protection to the City against risk associated with non-performance by the contractor.

**Purchasing Policy**

The negotiation with Canada Fibers Limited was conducted in accordance with the procedures outlined in Purchasing Policy 4.11.

**RELEVANT CONSULTATION**

Legal Services, Financial Services and the Solid Waste Management Master Plan Steering Committee were consulted for input during the preparation of this report and the recommendations in this report are acceptable from each of their perspectives.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

Based on Council direction given at the July 6, 2011 General Issues Committee and July 7<sup>th</sup> Council meeting, CFL and City staff have negotiated changes to the contract as outlined in Report 11030a as Appendix A, subject to Council approval.

The contract extension has been negotiated to seven (7) years to align it with the collection contract which is also due to expire on March 31, 2013 and whose next contract will be also be seven (7) years. Staff have negotiated with CFL that during this term, they are responsible for the operation, maintenance and replacement of any equipment under the same terms and conditions found in the current contract. CFL and the City’s consultant Stantec have assessed the equipment in the container and fibre lines and believe with proper maintenance, it will last the term of the contract extension. Additionally by utilizing the current equipment and extending the contract with the current operator, the City avoids having to invest \$6 - \$8M in new fibre and container lines.

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The current cost of processing with CFL remains one of the lowest among Ontario municipalities as outlined in Report PW11030b as Appendix B. Although the negotiated processing rate with CFL reflects an increase to the current processing rate it will nevertheless continue to be one of the lowest rates in Ontario. CFL's base processing cost has not increased since the start of the current contract in April, 2003, with the only adjustments being made when the City added new materials to the blue box program and for annual CPI. It is estimated that the gross increase to the operating contract will be offset by increases in the material markets and therefore there is no net increase to the cost of the material recycling budget.

Under the terms and conditions of the existing contract, the City does not have the option to purchase CFL owned equipment at the expiration of the contract. Additionally, staff confirmed with CFL that if the contract went to another operator, they would relocate the fibre equipment to another one of their processing facilities and would not sell the equipment to the City. This equipment is critical in the operation of the MRF. At this time the replacement of the fibre processing line has not been included in the 2012 capital budget. By extending the contract the City will not have to make a capital investment to replace any CFL owned equipment which is estimated to be \$3M.

In accordance with the current contract, CFL has up to thirty (30) days to remove their equipment following contract expiration. Since the transition from CFL to City owned fibre processing equipment cannot occur until the expiration of the contract, arrangements would need to be made for the transport and processing of City fibre materials at an alternate facility(s) for up to three months until CFL removes its equipment and the new fibre processing equipment is installed. Based on 2011 tonnages and costs this would amount to an operating budget pressure of an estimated \$550K.

Both CFL and Stantec have identified that the MRF container line requires improvements. Specifically, Stantec's "Materials Recovery Facility Assessment" report recommends that new front end equipment be added to the City owned container processing line. The existing front end screening system only has a few more years of useful service and will not last past the expiration of the current contract. This equipment is critical to ensure the continued effective operation of the container line for the next seven (7) years. By upgrading and replacing the front end container processing line equipment it will remove more glass from the system, ensuring lower maintenance costs and longer life for the container line. Additionally, the glass product will be cleaner, will contribute to higher diversion rates and will ensure that a glass market is always available to the City. Should the replacement front end equipment Capital budget not be approved as part of the 2012 Capital budget process, maintenance costs for the container line will increase and the container line may not last the term of the contract extension. This may lead to additional maintenance cost claims from the operator and also lead to more costly equipment replacements during the term of the contract.

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The purchase of the additional container line equipment was contemplated and has been requested as part of the 2012 capital budget. Any newly purchased equipment must be compatible with the existing equipment in order for it to be integrated into the current container processing line. Since CFL is responsible for maintenance, the new equipment should be of a standard that is agreeable to CFL. A significant advantage of having CFL design and supply the front end container line equipment is that they become fully responsible for the quality of the commodities they process. By having CFL procure the equipment the City will benefit from the economies of scale and buying power that CFL has as a major MRF operator in Ontario. Due to their expertise, experience and demonstrated skill at executing a similar project for the City in 2007 (acquisition of the MRF Container Line – Report PW07092a), it is recommended that CFL procure and install the required equipment. If approved by Council, it is recommended that the City retain CFL to design, supply, install, operate and maintain new glass clean-up and breaking equipment at a cost to not exceed \$1.91 million (excluding taxes).

The marketing of the City's fibre commodities is currently being done by CFL. Since 2003 container commodities have been marketed by Recyclable Materials Marketing (ReMM) under contract to the City. Through the contract negotiations it was agreed that CFL would market both container and fibre commodities. CFL has been a leader in the Ontario recycling industry for over twenty years. During this time they have gained a tremendous amount of marketing experience, have an extensive network of contacts and end markets, have significant resources to effectively market the City's commodities, and the City will benefit from economies of scale that CFL will provide in the marketing of City owned commodities. Therefore it is recommended that CFL market all materials recycled at the City's MRF. The marketing function will be incorporated into the contract and the City will continue to receive 100% of the revenue.

In order to maximize the City's capital investment in equipment upgrades, it is recommended that staff be directed to seek out and enter into partnerships with both private and public entities for the sale of excess merchant capacity at the MRF. By doing so it will allow the City to maximize revenue and will assist in offsetting the operating budget.

The current contract is an eight (8) year old contract which has had several amendments added to it over this time. During negotiations it was agreed by CFL and the City that additional contract amendments need to be made as part of the recommended extension. Contract amendments focus on cleaning up language, modernizing template sections of the contract and to eliminate conditions that are no longer relevant to the current operation of the facility and site. Edits made to the contract will be those that are acceptable to the General Manager of Public Works and in a form acceptable to the City Solicitor.

Request for Proposals (RFP) for Waste Collection Services (Contract C11-30-11) was issued at the same time as the MRF contract extension negotiations were taking place. The proposals for that RFP are in the process of being evaluated. As a result, the

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recommendations in this report do not incorporate any changes that may be required as a result of the Waste Collection Services RFP.

**ALTERNATIVES FOR CONSIDERATION**

In the event that Council elects not to approve the recommendations in this report there remains one option to be considered. The City would be required to issue a Request for Proposal (RFP) for the operation and maintenance of the MRF.

There are financial and timing implications related to issuing a RFP which would result in higher capital and operating costs for the City.

**Financial**

As described in Report PW11030a, the City will continue to operate a dual stream MRF to at least 2020. All fibre processing line equipment, material balers and rolling stock (front-end loader and bobcats) are owned by CFL. If the City were to issue a RFP all CFL owned equipment would need to be replaced at a cost of approximately \$3M. The City would have the option of issuing a separate RFP for the design, supply and installation of the required equipment or alternatively a RFP could be issued thus making it a design, build and operate contract.

Additionally, staff have negotiated a favourable processing rate which will continue to be one of the lowest in the province. If the City elects to issue a RFP for the operation and maintenance of the MRF there would be a risk of higher prices being submitted.

Since CFL is not required to remove its equipment for thirty (30) days following the expiration of the contract an alternate facility(s) would need to be contracted in order to process the City's fibre materials until new equipment is installed. This could be achieved by either the City including a condition in the RFP that would require the Proponent to find an alternate facility(s) or the City could make the arrangements. It is estimated that it would cost approximately \$550K (based on 2011 costs and tonnages) to process the City's fibre materials at an alternate facility for an estimated three (3) months.

Depending on the nature of the arrangements with the alternate fibre processing facility there may be additional revenue impacts to the City.

**Timing**

If the City were to issue a RFP the decision to select this option would need to be done immediately. Although the contract expires in sixteen (16) months a sufficient amount of time is required to develop and issue a RFP, evaluate bids, and award the contract. Following contract award it will take between six (6) and twelve (12) months to procure and install the fibre processing line equipment.

Due to the rigid timelines a contract would have to be finalized no later than March 2012.



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**CORPORATE STRATEGIC PLAN**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

***Financial Sustainability***

- ◆ Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner

***Intergovernmental Relationships***

- ◆ Acquire greater share of Provincial and Federal grants (including those that meet specific needs)

***Environmental Stewardship***

- ◆ Reduced impact of City activities on the environment

**APPENDICES / SCHEDULES**

Appendix A - Outline of Negotiated Contract Provisions - Contract C11-74-02

Appendix B - Comparison of Ontario Municipal Material Recycling Facility Processing Rates

Material Recycling Facility Contract Extension Negotiations

Outline of Negotiated Contract Provisions – Contract C11-74-02

CFL agrees to:

1. The term of the agreement extension will be for seven (7) years from April 1, 2013 to March 31, 2020.
2. Design, supply, install, operate and maintain front end container line processing equipment which includes a drum feeder, glass breaker and clean-up system, all associated conveyors, and the controls and instrumentation required to operate this equipment. The City of Hamilton (City) will be the owner of this equipment at all times. Maintenance costs will be the responsibility of Canada Fibers Limited (CFL), the same as set out in the current contract.
3. A blending of all processing costs into a single outgoing per tonne rate which includes fibre and container line processing costs, rolling stock costs, LCBO deposit / return adjustment, and cost of manual sorting of polystyrene and non-recyclable plastic bags containing recyclables.
4. A general contractual clause requiring CFL to produce marketable material based on market requirements at the time and to allow for changes based on market development and feedstock changes.
5. Market container material on behalf of the City with many of the same terms and conditions of the City's current marketing contract.
6. General updating of standard contract conditions and removal of any outdated references as a result of the negotiated contract extension.

City agrees to:

1. The term of the agreement extension will be for seven (7) years from April 1, 2013 to March 31, 2020.
2. Pay to CFL the cost associated with the design, supply and installation of a drum feeder, glass breaker and clean-up system, all associated conveyors, and the controls and instrumentation required to operate this equipment with

an upset limit of \$1.91 million excluding contingency costs and inclusive of all applicable taxes, subject to the 2012 Capital budget process.

3. Incorporate into the contract the ability for the City to actively seek out and enter into partnerships with both private and municipal entities for the sale of excess merchant capacity at the MRF. CFL may approach the City with potential third party partnerships.
4. Incorporate into the contract a change of laws clause which considers legislative changes that may impact the contract. Such a clause will serve to protect the contract should, for example, Waste Diversion Ontario assume responsibility of the Blue Box program.
5. Amend the contract to reflect the new per tonne processing rate (adjusted for CPI based on 2011 dollars) when the contract begins April 2013.

**APPENDIX “B”  
REPORT PW11030b**

Material Recycling Facility Contract Extension Negotiations

Comparison of Ontario Municipal Material Recycling Facility Processing Rates

The chart in Appendix B provides an overview of municipal Material Recycling Facility (MRF) processing rates in Ontario. The purpose is to provide a comparison for the City of Hamilton’s adjusted rate based on the contract extension negotiations with Canada Fibers Limited.

Note: rates are based on the 2010 Waste Diversion Ontario Datacall and have been adjusted by an annual 2% CPI increase to reflect 2013 projected processing rates. The 2010 WDO rate is \$93.80 however in the chart below it has been adjusted to reflect the new negotiated rate.

Municipality	MRF Type (Single / Dual Stream)	Total Tonnage	2010 WDO Rate / tonne	CPI Adjusted 2013 Rate
City of Hamilton	Dual	40,272	93.80	\$99.54
City of London	Dual	25,485	\$137.65	\$146.08
City of Ottawa	Dual	63,213	\$80.75	\$85.69
Region of Essex- Windsor	Dual	242,634	\$107.70	\$114.29
Region of Niagara	Dual	35,265	\$115.72	122.8
Region of Waterloo	Dual	34,968	\$97.82	\$103.81
City of Guelph	Single	7,485	\$330.00	\$350.20
City of Toronto	Single	150,010	\$115.72	\$122.80
Region of Halton	Single	41,736	\$76.31	\$80.98
Region of Peel	Single	90,367	\$139.16	\$147.68
Region of York	Single	78,494	\$134.27	\$142.49
Provincial Average	N/A	N/A	\$105.03	\$111.46